

C.C.R.B CASE CLOSING FORM

Investigator assigned:		Team:	CCRB#:	<input type="checkbox"/> Force <input checked="" type="checkbox"/> Discourtesy
Schlauch		4	9901804	<input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Date of incident:	Time of incident:	Location of incident:	Pct. of occurrence:	Date S.O.L. Expires:
4/5/99	6:15 PM	Cross Bronx Expressway, Bronx	44th Precinct	10/5/00
Date reported:	Time reported:	To whom/where/how reported:		
4/15/99	5:00 PM	The complainant went to the 44th Precinct.		
Complainant:		Home address:		
§ 87(2)(b)		§ 87(2)(b)		
Victim(s):		Home address:		
§ 87(2)(b)		Same as above		
§ 87(2)(b)		Same as above		
Witness(es):		Home address:		
§ 87(2)(b)		§ 87(2)(b)		
Subject officer(s) (include rank):		Shield:	Tax:	Command:
P.O. Michael Gibbs		09620	906330	44th Precinct
Witness officer(s) (include rank):		Shield:	Tax:	Command:
P.O. Michael Brennan		11074	904034	44th Precinct
Allegation(s) by letter:				Recommendation(s):
A) Offensive language: P.O. Michael Gibbs made remarks to § 87(2)(b) based upon race.				A) § 87(2)(g)
B) Discourtesy: P.O. Michael Gibbs spoke rudely to § 87(2)(b)				B) § 87(2)(g)

Synopsis

Police responded to a vehicle accident involving a truck and a sedan. The motorist, § 87(2)(b), who is black, charged that the police that responded approached him and his girlfriend with a hostile attitude, spoke disrespectfully to them, and that the accident report they wrote was biased toward the white truck driver. § 87(2)(g)

The responding officers were identified by § 87(2)(b) § 87(2)(b) girlfriend, who got their names from their name plates.

Summary of Complaint

On April 5, 1999, at about 6:15 P.M., § 87(2)(b), his fiancée, § 87(2)(b) and § 87(2)(b) co-worker, § 87(2)(b) were driving on the Cross Bronx Expressway. According to § 87(2)(b) a truck began tapping the back of his car. § 87(2)(b) started honking his horn "so the driver ahead of

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(him) could open a space between them both since § 87(2)(b) was in the middle lane to begin with.” (Enc. 4A.) Said § 87(2)(b) “The driver in the right went further to the right while the driver in the middle went toward the left lane. Even then the driver of the freight truck came and smashed me *directly* in the back even though I was in the middle of both lanes.”

§ 87(2)(b) added that before the truck started tapping him, he had switched from the right lane into the middle lane. It was then that the truck that was moving too slowly behind him (there was a traffic jam) started hitting his car. (Enc. 7.)

When Police Officers Michael Gibbs and Michael Brennan arrived, Officer Gibbs approached § 87(2)(b) in a “very hostile” manner (enc. 7) and said, “Take your hand out of your pockets,” and “Where is your weapon?” (Enc. 4A.) § 87(2)(b) replied, “What weapon? You are free to search the car if you think I have a weapon.” Officer Gibbs then asked if the two ladies had weapons. § 87(2)(b) again told Officer Gibbs that he was free to search the car. Officer Gibbs said that if he thought they had weapons, they would be going to jail.

§ 87(2)(b) reported telling Officer Gibbs that the truck driver rammed into the back of his car. § 87(2)(b) started to say more but Officer Gibbs walked away. § 87(2)(b) said that when the officer asked him what happened, he did not inform him that he was taking a statement then.

Officer Brennan went over to the truck driver and was taking a statement from him. § 87(2)(b) asked Officer Brennan why he wasn’t taking a statement from him. Officer Brennan replied that Officer Gibbs took his statement. § 87(2)(b) started to tell Officer Brennan what happened anyway but Brennan told § 87(2)(b) it was too late – they had already taken the statement. (Enc. 8C.) According to § 87(2)(b) however, when he finally got a copy of the accident report, “nothing was on the report from (him) stating what happened.” (Enc. 4B.) § 87(2)(b) said that the officers made several statements to him that confirmed their lack of objectivity when they took the report. Officer Gibbs told him that he “might as well fix (his) car out of (his) pocket.” (Enc. 4C.) Officer Brennan told him that the insurance company he mentioned did not go by the police report. (Enc. 4C.)

Finally, § 87(2)(b) said that his passenger, § 87(2)(b) was seven-months pregnant when this happened. The officers asked them if they wanted an ambulance. When they said yes, Officer Gibbs said, “She will be okay. I have delivered lots of babies before so she will be okay.” (Enc. 4C.) According to § 87(2)(b), Officer Gibbs made this comment with a “hostile tone of voice” and also said, with an attitude, “If you need an ambulance, I’ll get you an ambulance.” (Enc. 7B.)

§ 87(2)(b) did not initially mention talking to the truck driver. He added that he wasn’t even allowed to – the officer told him he would get the truck driver’s insurance information from the report. When asked about it, however, he insisted that there was no hostility between them. The truck driver had even asked to use his cell phone. (Enc. 7B.) At CCRB, he added that he had approached the truck driver after the accident to ask for his information but the truck driver refused to give it to him. Nevertheless, whatever conversation they had then wasn’t hostile and “it never (got) close to getting physical. (Enc. 8E.)

§ 87(2)(b), who was interviewed on the phone, added that the truck driver went into § 87(2)(b)

car "with a full blow, taking off the bumper" and breaking "the light on the left side." (Enc. 5A.) § 87(2)(b) had said a few times that he called for the police on his cell phone, but § 87(2)(b) said that she called. When the police came, the first thing they said to § 87(2)(b) was "Where's your gun" (or weapon)? She claimed not to know if the truck driver said anything first because the officers had told them to sit in the car. (§ 87(2)(b) also said that he wasn't there when the police first spoke to the truck driver, enc. 8F) She did recall saying to the truck driver, however, "What are you trying to do? You're trying to kill my baby?" (Enc. 5A.)

She reported that after the accident, she was "in so much shock" because she was pregnant. (Enc. 5A.) Commenting that Officer Gibbs was not a doctor but a police officer who was telling her this, she said he replied, "I've delivered babies before. You'll be fine." (Enc. 5A.) She confirmed that Officer Gibbs did ask her if she needed an ambulance and that an ambulance came and took her to the hospital to ensure that her baby was all right. (Enc. 5A.)

She and § 87(2)(b) reported that Officer Brennan wrote the police report.

In a second interview, § 87(2)(b) amended what she said earlier somewhat. She didn't recall speaking directly to the truck driver and only recalled him asking to use the cell phone. § 87(2)(b) was willing to let him use it but she refused. That was because § 87(2)(b) had just tried to speak to the truck driver and the truck driver "was going off and he didn't want to talk to § 87(2)(b) (Enc. 6.) She also recalled the truck driver telling the police that she was claiming she was pregnant. (Enc. 6.) She surmised from this that the truck driver was upset. She added that she was indeed pregnant and it showed.

On February 16, § 87(2)(b) reported that they had fixed their car's bumper as Officer Gibbs had advised them to do and it had cost \$1800. (Enc. 6A) They were in court to recover the money, but the owner of the truck was countersuing them. According to § 87(2)(b), nothing was wrong with the truck. (Enc. 5B.) § 87(2)(b) agreed, saying that the truck just had a "slight, little dent." (Enc. 8E.)

§ 87(2)(b) reported getting the officers' names from their badges. (Enc. 5A.) § 87(2)(b) reported going to the precinct several times before he finally got a copy of the accident report on April 13. Sometimes, when talking about how unfairly the officers treated him, he theorized that it was because he was black.

Results of Investigation

Officers Gibbs and Brennan only reported in their memo books that they responded on April 5 to a vehicle accident. (Enclosures 10A and 12A.) Officer Brennan said he was the recorder on April 5, so he wrote the accident report. § 87(2)(g)

Officer Brennan said that when he and Gibbs got to the scene, a sedan had been in an accident with a tractor-trailer. When they pulled up, the truck driver said that he and the motorist had a dispute and the motorist had threatened him with a gun. Brennan said they separated the drivers and he first asked the truck driver what happened and then asked § 87(2)(b). He added that some transit workers in a Jeep

Cherokee who had witnessed the accident had stopped on the side of the road. They told him that the motorist was either weaving in and out of traffic or had cut in front of the truck, causing the truck to strike the sedan. Officer Brennan said he would have gotten their names but they apparently didn't want to get involved. (Enc. 11A.)

According to Officer Brennan, when the truck driver said the motorist had a gun and motioned that § 87(2)(b) had one (he didn't know if § 87(2)(b) was close enough to hear that). Officer Gibbs asked § 87(2)(b) if he had a gun. § 87(2)(b) said no. Officer Brennan also recalled § 87(2)(b) asking if Gibbs wanted to search him. Brennan said that they believed that § 87(2)(b) didn't have a gun. He didn't recall if Officer Gibbs asked § 87(2)(b) to take his hands out of his pockets.

Officer Brennan said that after getting their stories, he couldn't tell who was telling the truth. He could tell how the accident happened by the damage and from the point of impact, though. Brennan wasn't clear on who asked § 87(2)(b) what happened or when. He knew someone must have, however, because on the accident report he had written what the operator of vehicle two § 87(2)(b) said – that he was travelling in the right lane when he changed lanes causing the other vehicle to collide with him. (Enc. 11B.) He didn't recall § 87(2)(b) complaining that he didn't take a statement from him.

Officer Brennan remembered having an ambulance come to take a female from the sedan to the hospital. He didn't recall why he called for an ambulance or her being pregnant, however, and he denied that Officer Gibbs made any statement to her about having delivered babies before. As far as he knew, Gibbs had never delivered a baby.

Brennan said that other than when the drivers were trying to tell their stories at the same time, nobody was loud or angry.

Officer Gibbs made the most detailed statement of the two officers. When they got to where the truck and sedan were and had gotten out of their own car, the truck driver immediately yelled out, "Troopers, be careful, I think this man has a gun." (Enc. 13A.) The motorist was standing off to the side with his hands in his pockets. Saying, "It may not have been the soundest tactics I'd ever done," he and Officer Brennan approached § 87(2)(b) without drawing their weapons and just asked § 87(2)(b) to take his hands out of his pockets. When he complied, he asked § 87(2)(b) if he had a weapon. § 87(2)(b) said no. Officer Gibbs, who saw that two ladies were in the car, then asked § 87(2)(b) if there was a weapon in the car. § 87(2)(b) said no. Gibbs commented that he didn't know why the truck driver thought § 87(2)(b) might have a weapon. Anyway, he then asked if anyone was injured and at that point, they asked for an ambulance.

Gibbs said he spoke to the truck driver, then went past the truck to speak to a gentleman in a black vehicle that had stopped. That gentleman said he saw the car weaving in and out of traffic and it then crashed into the side of the truck. Officer Gibbs then spoke at length about all the helpful things he did, like helping the two ambulance attendants get § 87(2)(b) backboarded and neck-braced in the gurney and then helping them lift the gurney into the ambulance. Similarly, he and even the truck driver helped tie § 87(2)(b) bumper up so he could drive without it banging on the road.

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He recalled Officer Brennan speaking to § 87(2)(b) while he spoke to the truck driver. He couldn't hear what was said, however. Officer Gibbs didn't recall getting information from § 87(2)(b). As for § 87(2)(b) telling him what happened, he said he didn't remember § 87(2)(b) going into detail about what happened. His contact with § 87(2)(b) was limited because § 87(2)(b) was upset, so he mostly reassured him (and also § 87(2)(b)) that they were there and would take care of them and they shouldn't worry about anything. He denied telling § 87(2)(b) to fix his car out of his pocket or § 87(2)(b) asking why nobody was taking a statement from him. He also denied telling § 87(2)(b) that he delivered babies before. He said he never did and added, "not even my own." (Enc. 13E.)

The truck driver, § 87(2)(b) resides in Tennessee. He called CCRB and related what happened after § 87(2)(b) provided a number for § 87(2)(b) mother. § 87(2)(b) said that he was on the Cross-Bronx Expressway and traffic was at a dead standstill. When traffic started to move and he was just changing gears, § 87(2)(b)'s car came up in the right lane from out of nowhere and went into his truck, tearing the front bumper off. § 87(2)(b) then came running up to his truck saying, "You son of a bitch, you hit my car." § 87(2)(b) said, "Hit your car?" § 87(2)(b) said, "I'll kill you. I'll shoot you right here." According to the truck driver, § 87(2)(b) then pulled a gun that looked like a thirty-eight out of his pocket. After that, a girl came running up and said, "You're trying to kill my baby?" A second later, she called him a "stupid ass son of a bitch." He told her that the best thing she could do was go back to her car and sit down and shut up. Meanwhile, he saw a man and a lady in a black Blazer (or something) that had stopped nearby. He went over to the man and told him that the motorist had pulled a gun on him. The man told § 87(2)(b) to get back in his truck until the police got there.

§ 87(2)(b) said someone called the police because two young officers arrived. He told the officers what happened – that the motorist had pulled a gun on him. The officer who didn't write the report (Gibbs) asked § 87(2)(b) if he had a gun. § 87(2)(b) said no and went back to his car. Two ladies were sitting in the car and one, whom he presumed was § 87(2)(b)'s girlfriend, said, "Give me the gun." While the police officers were getting the truck driver's papers, § 87(2)(b) slipped the gun to her. The truck driver saw that though he didn't see what she did with it. He told Officer Gibbs that the motorist just gave her the gun. According to § 87(2)(b), neither officer did anything about searching § 87(2)(b) for a weapon, which upset him. The officer instead told him that unless they saw the motorist pull the gun on him, there was nothing they could do. § 87(2)(b) recalled that at one point, § 87(2)(b) was storming around and had his hands in his pockets. He believed the officer that wrote the report (Brennan) said, "Get your damn hands out of your pockets now." (Enc. 9) § 87(2)(b) also reported that § 87(2)(b) "started getting smart with the police." The officer told § 87(2)(b) he needed "to just calm down and be quiet." (Enc. 9.)

According to § 87(2)(b), Officer Gibbs stood against the guardrail with him and they talked about Tennessee and about hunting and fishing. He related that the officers said to him at one point: "He is . . . (and I'm not going to be rude in front of you, okay? But they said) he is fucking stupid . . . he come out of a right lane and hit you and he's claiming that you hit him." § 87(2)(b) replied that he was just sitting still. The officers said, "Yup. And that's what the accident report's going to show." (Enc. 9A.)

§ 87(2)(b) said that he gave § 87(2)(b) a rubber strap so he could tie his bumper up. He saw § 87(2)(b) kneel down to do something to his bumper but then the officers gave him back his papers and told him he could go. He commented that after § 87(2)(b) calmed down, he had come up to him to ask him

for some things. He gave the things to § 87(2)(b) but when § 87(2)(b) said he was sorry and wanted to talk, § 87(2)(b) replied, "But I ain't got a damn thing to say to you." (Enc. 9B.)

The police report was faxed to CCRB by § 87(2)(b). (Enc. 15.) § 87(2)(b) complained that his insurance code (for his Allstate insurance) was on the report but there was no code for the truck driver's insurance company. Thus, it took Allstate days to get that information and § 87(2)(b) regarded the omission as an example of the unfair treatment he was complaining about. The Truck Insurance Mart that insured § 87(2)(b) truck in Tennessee reported, however, that unlike New York's insurance cards, Tennessee's cards had no insurance company code on them. (Log, enc. 18D.) Therefore, the police officers would be unable to get the code from § 87(2)(b) insurance card. § 87(2)(b) also claimed that the accident report was written with no input from him whatsoever. At some point, though, the officers got names and ages from § 87(2)(b) and his passengers as well as other information.

§ 87(2)(b), the other lady in § 87(2)(b)' car, who he listed as a witness, couldn't be located. (Enc. 18B.) A DMV check was negative (enc. 21) and then when § 87(2)(b) and § 87(2)(b) were asked to help find her, they could not.

Conclusions and Recommendations

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED] (Enc. 7.) § 87(2)(b) most often said that Officer Gibbs approached him with an attitude but he occasionally said it might have been because he was black. § 87(2)(g)



[REDACTED] (Allegation A.) § 87(2)(g)
[REDACTED]

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§ 87(2)(g) [redacted] No one said they saw him help lift § 87(2)(b) into
the ambulance or help § 87(2)(b) tie up his bumper. § 87(2)(g) [redacted]

[redacted] That was
the case also. An ambulance was called for § 87(2)(b), and the officers' presence (at least) allowed the
truck driver to assist § 87(2)(b) in tying up his bumper and getting back on the road.

Officer Gibbs denied telling § 87(2)(b) that he had delivered babies before. § 87(2)(g) [redacted]
[redacted]
[redacted]

Investigator:	_____	Date:	_____
Supervisor:		Date:	2/28/00
Reviewed by:		Date:	2-28-00
Reviewed by:	_____	Date:	_____

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